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SUBJECT: DRAFT MOSCOW LEGISLATION MAY LIMIT "RELIGIOUS AGITATION"

Classified By: Ambassador William J. Burns: 1.4 (b) and (d).

¶1. (SBU) Summary. The Moscow City Duma is considering a quality-of-life bill which, if adopted in its present form, would allow authorities to fine those engaged in many forms of street solicitation, including "religious agitation." Some religious organizations here worry that if passed as currently written, the bill, which targets many types of public activity, not just proselytizing, could be used as a tool to restrict their missionary activities. The Ambassador has already brought concerns over the proposed legislation to the attention of Moscow Mayor Yuriy Luzhkov. Embassy will also discuss the issue with Moscow City Duma Chairman Vladimir Platonov. End Summary.

Bill To Protect the "Public Order"

¶2. (SBU) In May, the Moscow City Duma passed in a first reading a series of amendments to the Moscow City Code for Administrative Violations that establish penalties for "pestering" and "violation of public order in the form of solicitation of citizens for the purposes of purchase/sale, barter, or acquisition of goods; or for purposes of fortune-telling, begging, male or female prostitution, religious agitation, or imposing other services in public places." A second reading is expected in November, with a final (third) reading to take place soon afterward. The legislation could take effect as early as the first quarter of 2007. Anton Paleyev, Moscow City Duma Deputy and member of the Moscow City Duma Commission on Interethnic and Inter-religious Affairs, in an October 17 meeting described the amendments as an attempt to address minor "quality of life" problems that are not covered by current federal legislation.

¶3. (C) Paleyev predicted that the religious agitation provision would be included in the adopted code. The Commission's Expert Council, which includes representatives from many religious organizations, approved the current language. According to Paleyev, the article is necessary because prostitution, panhandling (not just homeless people, but even people pretending to be priests), pestering passers-by with religious literature, etc., is getting worse.

In Moscow, Paleyev said, there are over 1000 registered religious organizations, over 50 religious denominations, and over 100 nationalities. He worried that "religious agitation" might lead to friction among the various groups.

¶4. (C) The article under consideration is directed against any "pestering" that violates the public order in the city. This would include religious agitation (intrusive proselytizing and aggressively giving out religious literature, etc.) in public places, but only if it unduly

imposes upon Moscow citizens. Paleyev editorialized that faith is a private matter, and thought no one should be forced to listen to someone asking them personal questions about their religious beliefs on the street. The new legislation, which he said is based on "morality," is meant to protect Muscovites' privacy. Paleyev described the code modifications as "quality of life" amendments, targeting public order, not freedom of speech. Religious organizations can use other legal methods for their religious activities, such as the media and legally organized meetings, he said.

¶15. (U) Commercial fliers and advertisements that are distributed outside of metro stations and stores would not be covered by the legislation, Paleyev clarified because the fliers do not impose, do not try to convince, and do not violate the right to privacy.

¶16. (U) Punishment for violating the article would be a simple warning for the first offense, then a fine for each subsequent violation (100-300 rubles -- about USD 4-12). There are no harsher penalties for repeated violations of the article. The legislation's goal is to warn and prevent such behavior, not punish it, Paleyev said.

Reactions to the Bill

¶17. (C) The Church of Latter-Day Saints (LDS Church) is particularly concerned about the article. According to LDS Church International Legal Counsel Richard Page, the draft legislation, if adopted, has the potential to disrupt religious freedom. He said the term "religious agitation" is not defined in the legislation and has no recognized meaning in Russian law. As written, the legislation would

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effectively place broad interpretive and enforcement discretion in the hands of the authorities. Much of an LDS or other missionaries' day-to-day activity (handing out tracts, overtures issued in public places) could arguably fall within the scope of "religious agitation." If the legislation were to pass in its current form, missionaries could potentially have their work disrupted by the authorities and/or complainants.

¶18. (C) Page said that the constitutionally-protected right to disseminate religious beliefs would be equated with religious agitation, and thus under the new legislation, acts aimed at exercising a constitutional right could be deemed punishable administrative offenses. He emphasized that this did not mean that limits on missionary activities could not be introduced. He agreed with a 1999 Constitutional Court decree that the state is entitled to prevent missionary activity when it is accompanied by an offer of material gain or social benefits, when it seeks to influence individuals in distress, psychological pressure, or when it is accompanied by threats of force. These instances are not covered by the draft legislation.

¶19. (C) Vladimir Ryakhovskiy, a lawyer with the Slavic Law Center, said it was too early to assess the article, since there is still a chance that it will not be included in the final version of the law. He expects that if it were included, it would be used selectively to harass certain religious groups.

Comment

¶10. (C) The vague definition in the draft legislation of what constitutes "religious agitation" is a concern, and if passed in its current form, could be used to restrict missionary activity, depending on its interpretation by the authorities. The Ambassador has already addressed this issue with Moscow

Mayor Yuriy Luzhkov. He will also bring its potential consequences to the attention of Human Rights Ombudsman Lukin and Kremlin Human Rights Council Chairperson Ella Pamfilova. Embassy will also meet with Moscow City Duma Chairman Vladimir Platonov.

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